

UNIFORM FAITHFUL PRESIDENTIAL ELECTORS ACT

2011 HB 638	Uniform Act	Current NC Law	Staff Notes
No comparable provision	SECTION 1. SHORT TITLE. This [act] may be cited as the Uniform Faithful Presidential Electors Act.	No comparable provision	
No comparable provision	SECTION 2. DEFINITIONS. In this [act]: (1) “Cast” means accepted by the [Secretary of State] in accordance with Section 7(b). (2) “Elector” means an individual selected as a presidential elector under [applicable state statute] and this [act]. (3) “President” means President of the United States. (4) [“Unaffiliated presidential candidate” means a candidate for President who qualifies for the general election ballot in this state by means other than nomination by a political party.] [(5)] “Vice President” means Vice President of the United States.	No comparable provision	
§ 163-216.1. Designation of State's electors. (a) For each elector position in this State, a political party contesting the position, or an unaffiliated presidential candidate, shall submit to the Secretary of State the names of two qualified individuals. One of the individuals must be designated "elector nominee" and the other "alternate elector nominee." Except as otherwise provided in this Article, this State's electors are the winning elector nominees under the laws of this State. (b) The names of candidates for electors of President and Vice President	SECTION 3. DESIGNATION OF STATE'S ELECTORS. For each elector position in this state, a political party contesting the position [, or an unaffiliated presidential candidate,] shall submit to the [Secretary of State] the names of two qualified individuals. One of the individuals must be designated “elector nominee” and the other “alternate elector nominee”. Except as otherwise provided in Sections 5 through 8, this state’s electors are the winning elector nominees under the laws of this state.	§ 163-1. Time of regular elections and primaries. ... (c) On Tuesday next after the first Monday in November in the year 1968, and every four years thereafter, or on such days as the Congress of the United States shall direct, an election shall be held in all of the election precincts of the State for the election of electors of President and Vice President of the United States. The number of electors to be chosen shall be equal to the number of Senators and Representatives in Congress to which this State may be	The first sentence of Section 3 of the UFPEA requires each party [or unaffiliated candidate] to submit an elector and alternate elector for each elector position, or 30 names total. As highlighted in G.S. 163-1(c), current law requires each party to nominate an elector for each elector position, plus two alternate

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<p>nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his or her name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, there shall be printed on the ballot the names of the candidates for President and Vice President of each political party recognized in this State and the name of any candidate for President who has qualified to have his or her name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State.</p>		<p>entitled. Presidential electors shall not be nominated by primary election; instead, they shall be nominated in a State convention of each political party as defined in G.S. 163-96 unless otherwise provided by the plan of organization of the political party; provided, that in the case of a candidate for President of the United States who has qualified to have his name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, that candidate shall nominate presidential electors. One presidential elector shall be nominated from each congressional district and two from the state at large, and in addition, the State convention of each party and the unaffiliated candidate shall each nominate first and second alternate electors who shall serve if their slate is elected as provided by G.S. 163-209 and if there is a vacancy as provided by G.S. 163-210.</p> <p>§ 163-209. Names of presidential electors not printed on ballots; notification.</p> <p>(a) The names of candidates for electors of President and Vice President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his or her name printed on the general election ballot as an unaffiliated candidate under G.S. 163-122, shall be filed with the</p>	<p>electors total, or 18 names total. (NC currently has two senators and 13 representatives, for a total of 15 electors. For the 2022 election, NC will have two senators and 14 representatives, for a total of 16 electors.)</p> <p>The second sentence of Section 3 of the UFPEA compares to the highlighted final sentence of G.S. 163-209(a).</p> <p>HB 638 adopted Section 3 of UFPEA as new G.S. 163-216.1(a), while also keeping G.S. 163-209(a) as new G.S. 163-216.1(b).</p>

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		<p>Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, there shall be printed on the ballot the names of the candidates for President and Vice President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his or her name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State.</p> <p>....</p>	
<p>§ 163-216.2. Pledge. Each elector nominee and alternate elector nominee of a political party shall execute the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for President and Vice President for the</p>	<p>SECTION 4. PLEDGE. Each elector nominee and alternate elector nominee of a political party shall execute the following pledge: "If selected for the position of elector, I agree to serve and to mark my ballots for President and Vice President for the nominees for those</p>	<p>§ 163-210. Governor to proclaim results; casting State's vote for President and Vice President. ... At any time prior to receipt of the certificate of the Governor or within 48 hours thereafter, any person elected to</p>	<p>Current law contains no pledge requirement. However, under G.S. 163-210, any elector can resign prior to receiving a copy of the certificate of ascertainment, or</p>

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<p>nominees for those offices of the party that nominated me." Each elector nominee and alternate elector nominee of an unaffiliated presidential candidate shall execute the following pledge: "If selected for the position of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and to mark my ballots for that candidate and for that candidate's vice presidential running mate." The executed pledges must accompany the submission of the corresponding names to the Secretary of State.</p>	<p>offices of the party that nominated me." [Each elector nominee and alternate elector nominee of an unaffiliated presidential candidate shall execute the following pledge: "If selected for the position of elector as a nominee of an unaffiliated presidential candidate, I agree to serve and to mark my ballots for that candidate and for that candidate's vice-presidential running mate."] The executed pledges must accompany the submission of the corresponding names to the [Secretary of State].</p>	<p>the office of elector may resign by submitting his resignation, written and duly verified, to the Governor. Failure to so resign shall signify consent to serve and to cast his vote for the candidate of the political party which nominated such elector.</p> <p>....</p>	<p>within 48 hours after receiving it. Failure to resign signifies consent to vote for the candidate of the party that nominated the elector.</p> <p>There is a requirement in G.S. 11-7 that "every person elected or appointed to hold any office of trust or profit" take an oath to support the US Constitution and NC Constitution.</p>
<p>§ 163-216.3. Governor to proclaim results; casting State's vote for President and Vice President.</p> <p>Upon receipt of the certifications prepared by the State Board of Elections and delivered in accordance with G.S. 163-182.15, the Secretary of State, under seal of the office, shall notify the Governor of the names of the persons elected to the office of elector for President and Vice President of the United States as stated in the abstracts of the State Board of Elections. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the old Hall of the House of Representatives in the State Capitol in the City of Raleigh at 12:00 noon on the first Monday after the second Wednesday in December next after their</p>	<p>SECTION 5. CERTIFICATION OF ELECTORS.</p> <p>In submitting this state's certificate of ascertainment as required by 3 U.S.C. Section 6, the [Governor] shall certify this state's electors and state in the certificate that:</p> <p>(1) the electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector will fill the vacancy; and</p> <p>(2) if a substitute elector is appointed to fill a vacancy, the [Governor] will submit an amended certificate of ascertainment stating the names on the final list of this state's electors.</p>	<p>§ 163-210. Governor to proclaim results; casting State's vote for President and Vice President.</p> <p>Upon receipt of the certifications prepared by the State Board of Elections and delivered in accordance with G.S. 163-182.15, the Secretary of State, under seal of the office, shall notify the Governor of the names of the persons elected to the office of elector for President and Vice President of the United States as stated in the abstracts of the State Board of Elections. Thereupon, the Governor shall immediately issue a proclamation setting forth the names of the electors and instructing them to be present in the old Hall of the House of Representatives in the State Capitol in the City of Raleigh at noon on the first Monday after the second Wednesday in December next after their election, at</p>	<p>Current G.S. 163-210 and HB 638 (as a new G.S. 163-216.4(a)) require that the Governor (i) submit to the Archivist of the US a certificate of ascertainment to communicate the electors appointed, listing them by name and the number of votes cast for each one, and (ii) deliver the certificate to each elector when submitting it. These tasks are also required by federal law in 3 U.S.C. § 6.</p>

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<p>election, at which time the electors shall meet and vote on behalf of the State for President and Vice President of the United States. If the old Hall of the House of Representatives in the State Capitol is unavailable, the Governor may specify another location within the City of Raleigh. The Governor shall cause this proclamation to be published on the Internet and in any daily newspaper published in the City of Raleigh and shall cause the proclamation to be distributed to representatives of the news media. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The Secretary of State is responsible for making the actual arrangements for the meeting, preparing the agenda, and inviting guests.</p> <p>§ 163-216.4. Certification of electors.</p> <p>(a) Before the date fixed for the meeting of the electors, the Governor shall send by registered mail to the Archivist of the United States either three duplicate original certificates or one original certificate and two authenticated copies of the Certificates of Ascertainment under the great seal of the State setting forth the names of the persons chosen as presidential electors for this State and the number of votes cast for each. These Certificates of Ascertainment should be sent as soon as possible after the election, but must be</p>		<p>which time the electors shall meet and vote on behalf of the State for President and Vice President of the United States. The Governor shall cause this proclamation to be published in the daily newspapers published in the City of Raleigh. Notice may additionally be made on a radio or television station or both, but such notice shall be in addition to the newspaper and other required notice. The Secretary of State is responsible for making the actual arrangements for the meeting, preparing the agenda, and inviting guests. Before the date fixed for the meeting of the electors, the Governor shall send by registered mail to the Archivist of the United States, either three duplicate original certificates, or one original certificate and two authenticated copies of the Certificates of Ascertainment, under the great seal of the State setting forth the names of the persons chosen as presidential electors for this State and the number of votes cast for each. These Certificates of Ascertainment should be sent as soon as possible after the election, but must be received before the Electoral College meeting. At the same time the Governor shall deliver to the electors six duplicate originals of the same certificate, each bearing the great seal of the State. At any time prior to receipt of the certificate of the Governor or within 48 hours thereafter, any person elected to the office of elector may resign by</p>	<p>While not required in state or federal law, the 2016 and 2020 NC certificates of ascertainment listed the two alternate electors, along with the chosen electors.</p> <p>HB 638 adopted Section 5 of UFPEA as new G.S. 163-216.4(b).</p>

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<p>received before the Electoral College meeting. At the same time the Governor shall deliver to the electors six duplicate originals of the same certificate, each bearing the great seal of the State.</p> <p>(b) In submitting this State's Certificate of Ascertainment as required by 3 U.S.C. § 6, the Governor shall certify this State's electors and state in the certificate all of the following:</p> <p>(1) The electors will serve as electors unless a vacancy occurs in the office of elector before the end of the meeting at which elector votes are cast, in which case a substitute elector will fill the vacancy.</p> <p>(2) If a substitute elector is appointed to fill a vacancy, the Governor will submit an amended Certificate of Ascertainment stating the names on the final list of this State's electors.</p>		<p>submitting his resignation, written and duly verified, to the Governor. Failure to so resign shall signify consent to serve and to cast his vote for the candidate of the political party which nominated such elector.</p> <p>....</p>	
<p>§ 163-216.5. Presiding officer; elector vacancy.</p> <p>(a) The Secretary of State shall preside at the meeting of electors described in this Article.</p> <p>(b) The position of an elector not present to vote is vacant. The Secretary of State shall appoint an individual as a substitute elector to fill a vacancy as follows:</p> <p>(1) If the alternate elector is present to vote, by appointing the alternate elector for the vacant position.</p> <p>(2) If the alternate elector for the vacant position is not present to vote, by</p>	<p>SECTION 6. PRESIDING OFFICER; ELECTOR VACANCY.</p> <p>(a) The [Secretary of State] shall preside at the meeting of electors described in Section 7.</p> <p>(b) The position of an elector not present to vote is vacant. The [Secretary of State] shall appoint an individual as a substitute elector to fill a vacancy as follows:</p> <p>(1) if the alternate elector is present to vote, by appointing the alternate elector for the vacant position;</p> <p>(2) if the alternate elector for the vacant position is not present to vote, by appointing an elector chosen by lot from</p>	<p>§ 163-210. Governor to proclaim results; casting State's vote for President and Vice President.</p> <p>...</p> <p>In case of the absence, ineligibility or resignation of any elector chosen, or if the proper number of electors shall for any cause be deficient, the first and second alternates, respectively, who were nominated under G.S. 163-1(c), shall fill the first two vacancies. If the alternates are absent, ineligible, resign, or were not chosen, or if there are more than two vacancies, then the electors present at the required meeting shall forthwith elect</p>	

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<p>appointing an elector chosen by lot from among the alternate electors present to vote who were nominated by the same political party.</p> <p>(3) If the number of alternate electors present to vote is insufficient to fill any vacant position under subdivisions (1) and (2) of this subsection, by appointing any immediately available individual who is qualified to serve as an elector and chosen through nomination by and plurality vote of the remaining electors, including nomination and vote by a single elector if only one remains.</p> <p>(4) If there is a tie between at least two nominees for substitute elector in a vote conducted under subdivision (3) of this subsection, by appointing an elector chosen by lot from among those nominees.</p> <p>(5) If all elector positions are vacant and cannot be filled pursuant to subdivisions (1) through (4) of this subsection, by appointing a single presidential elector, with remaining vacant positions to be filled under subdivision (3) of this subsection and, if necessary, subdivision (4) of this subsection.</p> <p>(c) To qualify as a substitute elector under subsection (b) of this section, an individual who has not executed the pledge required under G.S. 163-216.2 shall execute the following pledge: "I agree to serve and to mark my ballots for</p>	<p>among the alternate electors present to vote who were nominated by the same political party [or unaffiliated presidential candidate];</p> <p>(3) if the number of alternate electors present to vote is insufficient to fill any vacant position pursuant to paragraphs (1) and (2), by appointing any immediately available individual who is qualified to serve as an elector and chosen through nomination by and plurality vote of the remaining electors, including nomination and vote by a single elector if only one remains;</p> <p>(4) if there is a tie between at least two nominees for substitute elector in a vote conducted under paragraph (3), by appointing an elector chosen by lot from among those nominees; or</p> <p>(5) if all elector positions are vacant and cannot be filled pursuant to paragraphs (1) through (4), by appointing a single presidential elector, with remaining vacant positions to be filled under paragraph (3) and, if necessary, paragraph (4).</p> <p>(c) To qualify as a substitute elector under subsection (b), an individual who has not executed the pledge required under Section 4 shall execute the following pledge: "I agree to serve and to mark my ballots for President and Vice President consistent with the pledge of the individual to whose elector position I have succeeded."</p>	<p>from the citizens of the State a sufficient number of persons to fill the deficiency, and the persons chosen shall be deemed qualified electors to vote for President and Vice President of the United States.</p>	

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<p>President and Vice President consistent with the pledge of the individual to whose elector position I have succeeded."</p>			
<p>§ 163-216.6. Elector voting. (a) At the time designated for elector voting and after all vacant positions have been filled under G.S. 163-216.5, the Secretary of State shall provide each elector with a presidential and a vice presidential ballot. The elector shall mark the elector's presidential and vice presidential ballots with the elector's votes for the offices of President and Vice President, respectively, along with the elector's signature and the elector's legibly printed name. (b) Each elector shall present both completed ballots to the Secretary of State, who shall examine the ballots and accept as cast all ballots of electors whose votes are consistent with their pledges executed under this Article. The Secretary of State may not accept and may not count either an elector's presidential or vice presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's pledge. (c) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's pledge executed under this Article vacates the office of elector, creating a vacant position to be filled under G.S. 163-216.5.</p>	<p>SECTION 7. ELECTOR VOTING. (a) At the time designated for elector voting and after all vacant positions have been filled under Section 6, the [Secretary of State] shall provide each elector with a presidential and a vice-presidential ballot. The elector shall mark the elector's presidential and vice-presidential ballots with the elector's votes for the offices of President and Vice President, respectively, along with the elector's signature and the elector's legibly printed name. (b) Except as otherwise provided by law of this state other than this [act], each elector shall present both completed ballots to the [Secretary of State], who shall examine the ballots and accept as cast all ballots of electors whose votes are consistent with their pledges executed under Section 4 or 6(c). Except as otherwise provided by law of this state other than this [act], the [Secretary of State] may not accept and may not count either an elector's presidential or vice-presidential ballot if the elector has not marked both ballots or has marked a ballot in violation of the elector's pledge. (c) An elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's pledge executed under</p>	<p>§ 163-212. Penalty for failure of presidential elector to attend and vote. Any presidential elector having previously signified his consent to serve as such, who fails to attend and vote for the candidate of the political party which nominated such elector, for President and Vice President of the United States at the time and place directed in G.S. 163-210 (except in case of sickness or other unavoidable accident) shall forfeit and pay to the State five hundred dollars (\$500.00), to be recovered by the Attorney General in the Superior Court of Wake County. In addition to such forfeiture, refusal or failure to vote for the candidates of the political party which nominated such elector shall constitute a resignation from the office of elector, his vote shall not be recorded, and the remaining electors shall forthwith fill such vacancy as hereinbefore provided. The clear proceeds of forfeitures provided for in this section shall be remitted to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.</p>	<p>Under current law, failure to vote for the candidate of the party that nominated the elector constitutes resignation. The vote is not recorded, and a \$500 penalty is assessed against the elector.</p>

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<p>(d) The Secretary of State shall distribute ballots to and collect ballots from a substitute elector and repeat the process under this section of examining ballots, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors until all of this State's electoral votes have been cast and recorded.</p>	<p>Section 4 or 6(c) vacates the office of elector, creating a vacant position to be filled under Section 6.</p> <p>(d) The [Secretary of State] shall distribute ballots to and collect ballots from a substitute elector and repeat the process under this section of examining ballots, declaring and filling vacant positions as required, and recording appropriately completed ballots from the substituted electors, until all of this state's electoral votes have been cast and recorded.</p>		
<p>§ 163-216.7. Elector replacement; associated certificates.</p> <p>(a) After the vote of this State's electors is completed, if the final list of electors differs from any list that the Governor previously included on a Certificate of Ascertainment prepared and transmitted under 3 U.S.C. § 6, the Secretary of State immediately shall prepare an amended Certificate of Ascertainment and transmit it to the Governor for the Governor's signature.</p> <p>(b) The Governor immediately shall deliver the signed amended Certificate of Ascertainment to the Secretary of State and a signed duplicate original of the amended Certificate of Ascertainment to all individuals entitled to receive this State's Certificate of Ascertainment, indicating that the amended Certificate of Ascertainment is to be substituted for the Certificate of Ascertainment previously submitted.</p>	<p>SECTION 8. ELECTOR REPLACEMENT; ASSOCIATED CERTIFICATES.</p> <p>(a) After the vote of this state's electors is completed, if the final list of electors differs from any list that the [Governor] previously included on a certificate of ascertainment prepared and transmitted under 3 U.S.C. Section 6, the [Secretary of State] immediately shall prepare an amended certificate of ascertainment and transmit it to the [Governor] for the [Governor's] signature.</p> <p>(b) The [Governor] immediately shall deliver the signed amended certificate of ascertainment to the [Secretary of State] and a signed duplicate original of the amended certificate of ascertainment to all individuals entitled to receive this state's certificate of ascertainment, indicating that the amended certificate of ascertainment is to be substituted for the</p>	<p>No comparable provision.</p>	<p>Under 3 U.S.C. § 9, the electors sign and submit certificates of the votes given by them.</p>

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(c) The Secretary of State shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The Secretary of State shall process and transmit the signed certificate with the amended Certificate of Ascertainment under 3 U.S.C. §§ 9, 10, and 11.	certificate of ascertainment previously submitted. (c) The [Secretary of State] shall prepare a certificate of vote. The electors on the final list shall sign the certificate. The [Secretary of State] shall process and transmit the signed certificate with the amended certificate of ascertainment under 3 U.S.C. Sections 9, 10, and 11.		
No comparable provision.	SECTION 9. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.	Not applicable.	
No comparable provision.	No comparable provision.	§ 163-208. Conduct of presidential election. Unless otherwise provided, the election of presidential electors shall be conducted and the returns made in the manner prescribed by this Chapter for the election of State officers.	
§ 163-216.1. Designation of State's electors. ... (b) The names of candidates for electors of President and Vice President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his or her name printed on the general election ballot as an unaffiliated candidate under	No comparable provision, except for the last sentence, which is shown previously in the chart as the last sentence under Section 3.	§ 163-209(a). Names of presidential electors not printed on ballots; notification. (a) The names of candidates for electors of President and Vice President nominated by any political party recognized in this State under G.S. 163-96, or nominated under G.S. 163-1(c) by a candidate for President of the United States who has qualified to have his or her name printed on the general election ballot as an unaffiliated candidate under	

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<p>G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, there shall be printed on the ballot the names of the candidates for President and Vice President of each political party recognized in this State and the name of any candidate for President who has qualified to have his or her name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State.</p>		<p>G.S. 163-122, shall be filed with the Secretary of State but shall not be printed on the ballot. In the case of the unaffiliated candidate, the names of candidates for electors must be filed with the Secretary of State no later than 12:00 noon on the first Friday in August. In place of their names, there shall be printed on the ballot the names of the candidates for President and Vice President of each political party recognized in this State, and the name of any candidate for President who has qualified to have his or her name printed on the general election ballot under G.S. 163-122. A candidate for President who has qualified for the general election ballot as an unaffiliated candidate under G.S. 163-122 shall, no later than 12:00 noon on the first Friday in August, file with the State Board of Elections the name of a candidate for Vice President, whose name shall also be printed on the ballot. A vote for the candidates named on the ballot shall be a vote for the electors of the party or unaffiliated candidate by which those candidates were nominated and whose names have been filed with the Secretary of State.</p>	
<p>§ 163-216.8. Electors and dual office holding. (a) Upon receiving the filing of a name as a candidate for elector under G.S. 163-216.1, the Secretary of State shall notify that candidate of the dual office holding requirements of the North</p>	<p>No comparable provision.</p>	<p>§ 163-209(b). Names of presidential electors not printed on ballots; notification. ... (b) Upon receiving the filing of a name as a candidate for elector under this section, the Secretary of State shall</p>	

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<p>Carolina Constitution and the General Statutes, including specifically that if an individual elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office.</p> <p>....</p>		<p>notify that candidate of the dual office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office.</p>	
<p>§ 163-216.8. Electors and dual office holding.</p> <p>...</p> <p>(b) During January of each year in which electors are elected, the Secretary of State shall notify each political party authorized to nominate electors of (i) the requirement under G.S. 163-1(c) to nominate an elector and an alternate elector and (ii) the dual office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office.</p> <p>....</p>	<p>No comparable provision.</p>	<p>§ 163-209.1. Notification of political parties of dual office holding rules.</p> <p>During January of each year in which electors are elected, the Secretary of State shall notify each political party authorized to nominate electors of (i) the requirement under G.S. 163-1(c) to nominate first and second alternate electors, and (ii) the dual office holding requirements of the North Carolina Constitution and the General Statutes, including specifically that if a person elected as elector holds another elective office at the time of taking the oath of office as elector, that other office is vacated upon taking the oath of office.</p>	
<p>§ 163-216.8. Electors and dual office holding.</p> <p>...</p> <p>(c) The office of elector may be held in addition to the maximum number of appointive offices allowed by G.S. 128-1.1.</p>	<p>No comparable provision.</p>	<p>§ 163-209.2. Elector may be held in addition to other appointive offices.</p> <p>The office of elector may be held in addition to the maximum number of appointive offices allowed by G.S. 128-1.1.</p>	
<p>No comparable provision.</p>	<p>No comparable provision.</p>	<p>§ 163-211. Compensation of presidential electors.</p>	

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		<p>Presidential electors shall be paid, for attending the meeting held in the City of Raleigh on the first Monday after the second Wednesday in December next after their election, the sum of forty four dollars (\$44.00) per day and traveling expenses at the rate of seventeen cents (17¢) per mile in going to and returning home from the required meeting.</p>	
<p>§ 163-216.9. Appointment of Presidential Electors by General Assembly in certain circumstances, by the Governor in certain other circumstances. (a) Appointment by General Assembly if No Proclamation by Six Days Before Electors' Meeting Day. – As permitted by 3 U.S.C. § 2, whenever the appointment of any Presidential Elector has not been proclaimed under G.S. 163-216.3 before 12:00 noon on the date for settling controversies specified by 3 U.S.C. § 5, and upon the call of an extra session pursuant to the North Carolina Constitution for the purposes of this section, the General Assembly may fill the position of any Presidential Electors whose election is not yet proclaimed. (b) Appointment by Governor if No Appointment by the Day Before Electors' Meeting Day. – If the appointment of any Presidential Elector has not been proclaimed under G.S. 163-216.3 before 12:00 noon on the date for settling controversies specified by 3 U.S.C. § 5, nor appointed by the General Assembly</p>	<p>No comparable provision.</p>	<p>§ 163-213. Appointment of Presidential Electors by General Assembly in certain circumstances, by the Governor in certain other circumstances. (a) Appointment by General Assembly if No Proclamation by Six Days Before Electors' Meeting Day. – As permitted by 3 U.S.C. § 2, whenever the appointment of any Presidential Elector has not been proclaimed under G.S. 163-210 before noon on the date for settling controversies specified by 3 U.S.C. § 5, and upon the call of an extra session pursuant to the North Carolina Constitution for the purposes of this section, the General Assembly may fill the position of any Presidential Electors whose election is not yet proclaimed. (b) Appointment by Governor if No Appointment by the Day Before Electors' Meeting Day. – If the appointment of any Presidential Elector has not been proclaimed under G.S. 163-210 before noon on the date for settling controversies specified by 3 U.S.C. § 5, nor appointed by the General Assembly</p>	<p>G.S. 163-213(a) utilizes the safe harbor of 3 U.S.C. § 5: If prior-existing State law provides a means for determining the appointment of electors when the appointment is in controversy, an appointment of electors determined under that law at least six days prior to the meeting of electors is conclusive.</p>

2011 HB 638	Uniform Act	Current NC Law	Staff Notes
<p>by 12:00 noon on the day before the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then the Governor shall appoint that Elector.</p> <p>(c) Standard for Decision by General Assembly and Governor. – In exercising their authority under subsections (a) and (b) of this section, the General Assembly and the Governor shall designate Electors in accord with their best judgment of the will of the electorate. The decisions of the General Assembly or Governor under subsections (a) and (b) of this section are not subject to judicial review, except to ensure that applicable statutory and constitutional procedures were followed. The judgment itself of what was the will of the electorate is not subject to judicial review.</p> <p>(d) Proclamation Before Electors' Meeting Day Controls. – If the proclamation of any Presidential Elector under G.S. 163-216.3 is made any time before 12:00 noon on the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then that proclamation shall control over an appointment made by the General Assembly or the Governor. This section does not preclude litigation otherwise provided by law to challenge the validity of the proclamation or the procedures that resulted in that proclamation.</p>		<p>by noon on the day before the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then the Governor shall appoint that Elector.</p> <p>(c) Standard for Decision by General Assembly and Governor. – In exercising their authority under subsections (a) and (b) of this section, the General Assembly and the Governor shall designate Electors in accord with their best judgment of the will of the electorate. The decisions of the General Assembly or Governor under subsections (a) and (b) of this section are not subject to judicial review, except to ensure that applicable statutory and constitutional procedures were followed. The judgment itself of what was the will of the electorate is not subject to judicial review.</p> <p>(d) Proclamation Before Electors' Meeting Day Controls. – If the proclamation of any Presidential Elector under G.S. 163-210 is made any time before noon on the day set for the meeting of Presidential Electors by 3 U.S.C. § 7, then that proclamation shall control over an appointment made by the General Assembly or the Governor. This section does not preclude litigation otherwise provided by law to challenge the validity of the proclamation or the procedures that resulted in that proclamation.</p>	

OTHER RELEVANT PROVISIONS OF LAW

NC Constitution - Article VI, Sec. 9. Dual office holding.

(1) Prohibitions. It is salutary that the responsibilities of self-government be widely shared among the citizens of the State and that the potential abuse of authority inherent in the holding of multiple offices by an individual be avoided. Therefore, no person who holds any office or place of trust or profit under the United States or any department thereof, or under any other state or government, shall be eligible to hold any office in this State that is filled by election by the people. No person shall hold concurrently any two offices in this State that are filled by election of the people. No person shall hold concurrently any two or more appointive offices or places of trust or profit, or any combination of elective and appointive offices or places of trust or profit, except as the General Assembly shall provide by general law.

(2) Exceptions. The provisions of this Section shall not prohibit any officer of the military forces of the State or of the United States not on active duty for an extensive period of time, any notary public, or any delegate to a Convention of the People from holding concurrently another office or place of trust or profit under this State or the United States or any department thereof.

§ 11-7. Oath or affirmation to support Constitutions; all officers to take.

Every member of the General Assembly and every person elected or appointed to hold any office of trust or profit in the State shall, before taking office or entering upon the execution of the office, take and subscribe to the following oath:

"I, _____, do solemnly and sincerely swear that I will support the Constitution of the United States; that I will be faithful and bear true allegiance to the State of North Carolina, and to the constitutional powers and authorities which are or may be established for the government thereof; and that I will endeavor to support, maintain and defend the Constitution of said State, not inconsistent with the Constitution of the United States, to the best of my knowledge and ability; so help me God." (1781, c. 342, s. 1, P.R.; R.C., c. 76, s. 4; Code, s. 3312; Rev., s. 2358; C.S., s. 3194; 1985, c. 756, s. 5.)

§ 128-1.1. Dual-office holding allowed.

(a) Any person who holds an appointive office, place of trust or profit in State or local government is hereby authorized by the General Assembly, pursuant to Article VI, Sec. 9 of the North Carolina Constitution, to hold concurrently one other appointive office, place of trust or profit, or an elective office in either State or local government.

(b) Any person who holds an elective office in State or local government is hereby authorized by the General Assembly, pursuant to Article VI, Sec. 9 of the North Carolina Constitution to hold concurrently one other appointive office, place of trust or profit, in either State or local government.

(c) Any person who holds an office or position in the federal postal system or is commissioned as a special officer or deputy special officer of the United States Bureau of Indian Affairs is hereby authorized to hold concurrently therewith one position in State or local government.

(c1) Where authorized by federal law, any State or local law enforcement agency may authorize its law enforcement officers to also perform the functions of an officer under 8 U.S.C. § 1357(g) if the agency has a Memorandum of Agreement or Memorandum of Understanding for that purpose with a federal agency. State and local law enforcement officers authorized under this provision are authorized to hold any office or position with the applicable federal agency required to perform the described functions.

(c2) Repealed by Session Laws 2015-201, s. 3(b), effective August 5, 2015.

(d) The term "elective office," as used herein, shall mean any office filled by election by the people when the election is conducted by a county board of elections under the supervision of the State Board of Elections. (1971, c. 697, s. 2; 1975, c. 174; 1987, c. 427, s. 10; 2006-259, s. 24(a); 2011-31, s. 13; 2014-100, s. 14.11(b); 2015-201, s. 3(b); 2015-241, s. 14.30(u); 2017-6, s. 3; 2018-146, ss. 3.1(a), (b), 6.1.)

UNITED STATES CODE, TITLE 3—THE PRESIDENT, CHAPTER 1—PRESIDENTIAL ELECTIONS AND VACANCIES

§1. Time of appointing electors

The electors of President and Vice President shall be appointed, in each State, on the Tuesday next after the first Monday in November, in every fourth year succeeding every election of a President and Vice President. (June 25, 1948, ch. 644, 62 Stat. 672.)

§2. Failure to make choice on prescribed day

Whenever any State has held an election for the purpose of choosing electors, and has failed to make a choice on the day prescribed by law, the electors may be appointed on a subsequent day in such a manner as the legislature of such State may direct. (June 25, 1948, ch. 644, 62 Stat. 672.)

§3. Number of electors

The number of electors shall be equal to the number of Senators and Representatives to which the several States are by law entitled at the time when the President and Vice President to be chosen come into office; except, that where no apportionment of Representatives has been made after any enumeration, at the time of choosing electors, the number of electors shall be according to the then existing apportionment of Senators and Representatives. (June 25, 1948, ch. 644, 62 Stat. 672.)

§4. Vacancies in electoral college

Each State may, by law, provide for the filling of any vacancies which may occur in its college of electors when such college meets to give its electoral vote. (June 25, 1948, ch. 644, 62 Stat. 673.)

§5. Determination of controversy as to appointment of electors

If any State shall have provided, by laws enacted prior to the day fixed for the appointment of the electors, for its final determination of any controversy or contest concerning the appointment of all or any of the electors of such State, by judicial or other methods or procedures, and such determination shall have been made at least six days before the time fixed for the meeting of the electors, such determination made pursuant to such law so existing on said day, and made at least six days prior to said time of meeting of the electors, shall be conclusive, and shall govern in the counting of the electoral votes as provided in the Constitution, and as hereinafter regulated, so far as the ascertainment of the electors appointed by such State is concerned. (June 25, 1948, ch. 644, 62 Stat. 673.)

§6. Credentials of electors; transmission to Archivist of the United States and to Congress; public inspection

It shall be the duty of the executive of each State, as soon as practicable after the conclusion of the appointment of the electors in such State by the final ascertainment, under and in pursuance of the laws of such State providing for such ascertainment, to communicate by registered mail under the seal of the State to the Archivist of the United States a certificate of such ascertainment of the electors appointed, setting forth the names of such

Staff Note: Certain comparative language is highlighted for ease in locating it.

electors and the canvass or other ascertainment under the laws of such State of the number of votes given or cast for each person for whose appointment any and all votes have been given or cast; and it shall also thereupon be the duty of the executive of each State to deliver to the electors of such State, on or before the day on which they are required by section 7 of this title to meet, six duplicate-originals of the same certificate under the seal of the State; and if there shall have been any final determination in a State in the manner provided for by law of a controversy or contest concerning the appointment of all or any of the electors of such State, it shall be the duty of the executive of such State, as soon as practicable after such determination, to communicate under the seal of the State to the Archivist of the United States a certificate of such determination in form and manner as the same shall have been made; and the certificate or certificates so received by the Archivist of the United States shall be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection; and the Archivist of the United States at the first meeting of Congress thereafter shall transmit to the two Houses of Congress copies in full of each and every such certificate so received at the National Archives and Records Administration. (June 25, 1948, ch. 644, 62 Stat. 673; Oct. 31, 1951, ch. 655, §6, 65 Stat. 711; Pub. L. 98–497, title I, §107(e)(1), (2)(A), Oct. 19, 1984, 98 Stat. 2291.)

§7. Meeting and vote of electors

The electors of President and Vice President of each State shall meet and give their votes on the first Monday after the second Wednesday in December next following their appointment at such place in each State as the legislature of such State shall direct. (June 25, 1948, ch. 644, 62 Stat. 673.)

§8. Manner of voting

The electors shall vote for President and Vice President, respectively, in the manner directed by the Constitution. (June 25, 1948, ch. 644, 62 Stat. 674.)

§9. Certificates of votes for President and Vice President

The electors shall make and sign six certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one of the votes for President and the other of the votes for Vice President, and shall annex to each of the certificates one of the lists of the electors which shall have been furnished to them by direction of the executive of the State. (June 25, 1948, ch. 644, 62 Stat. 674.)

§10. Sealing and endorsing certificates

The electors shall seal up the certificates so made by them, and certify upon each that the lists of all the votes of such State given for President, and of all the votes given for Vice President, are contained therein. (June 25, 1948, ch. 644, 62 Stat. 674.)

§11. Disposition of certificates

The electors shall dispose of the certificates so made by them and the lists attached thereto in the following manner:

First. They shall forthwith forward by registered mail one of the same to the President of the Senate at the seat of government.

Staff Note: Certain comparative language is highlighted for ease in locating it.

Second. Two of the same shall be delivered to the secretary of state of the State, one of which shall be held subject to the order of the President of the Senate, the other to be preserved by him for one year and shall be a part of the public records of his office and shall be open to public inspection.

Third. On the day thereafter they shall forward by registered mail two of such certificates and lists to the Archivist of the United States at the seat of government, one of which shall be held subject to the order of the President of the Senate. The other shall be preserved by the Archivist of the United States for one year and shall be a part of the public records of his office and shall be open to public inspection.

Fourth. They shall forthwith cause the other of the certificates and lists to be delivered to the judge of the district in which the electors shall have assembled. (June 25, 1948, ch. 644, 62 Stat. 674; Oct. 31, 1951, ch. 655, §7, 65 Stat. 712; Pub. L. 98–497, title I, §107(e)(1), Oct. 19, 1984, 98 Stat. 2291.)

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